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**UNITED STATES DISTRICT COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**

12 GORDON AND MARY FELLER,  
13 et al.,

14 Plaintiffs,

15 vs.

16 TRANSAMERICA LIFE  
17 INSURANCE COMPANY,

18 Defendant.  
19  
20  
21  
22

Case No. 16-cv-01378 CAS (GJSx)

CLASS ACTION

**FINAL ORDER APPROVING  
PLAINTIFFS' MOTION FOR FINAL  
CERTIFICATION OF SETTLEMENT  
CLASS AND FINAL APPROVAL OF  
PROPOSED NATIONWIDE CLASS  
SETTLEMENT AGREEMENT [DKT.  
420] AND MOTION FOR COURT  
APPROVAL OF COMMON FUND  
PAYMENT OF ATTORNEYS' FEES,  
LITIGATION EXPENSES, AND  
SERVICE AWARDS [DKT. 421]**

Courtroom: 8D – 8th Floor

Judge: The Hon. Christina A. Snyder  
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1 **I. INTRODUCTION & BACKGROUND**

2 In 2015 and 2016, Transamerica Life Insurance Company (“Transamerica”)  
3 increased the monthly deduction rates (“MDR”) applicable to the Policies issued  
4 under the plans set forth in Exhibit A to the parties’ Settlement Agreement (the  
5 “MDR Increases”). The MDR Increases involved the Wave 1, 2A, 2B and 3 MDR  
6 increases on the Policies beginning in August 2015.

7 On February 28, 2016, Gordon Feller, Mary Feller, George Zacharia and  
8 Margaret Zacharia, filed this putative class action against Transamerica challenging  
9 the MDR Increases. [Dkt. 1.] On March 25, 2016, Andrew Kriegman filed a  
10 putative class action in the Southern District of Florida challenging the MDR  
11 Increases entitled *Kriegman v. Transamerica Life Insurance Company*, Case No.  
12 1:16-cv-21074. On April 25, 2016, Gail Thompson and Lois Thompson filed a  
13 putative class action in the Southern District of California challenging the MDR  
14 Increases entitled *Thompson v. Transamerica Life Insurance Company*, Case No.  
15 3:16-cv-01007.

16 On May 3, 2016, Transamerica filed a motion before the United States Judicial  
17 Panel on Multidistrict Litigation (“JPML”) seeking transfer of all three actions to the  
18 Northern District of Iowa. [Dkt. 22.] Before the JPML ruled on Transamerica’s  
19 motion, the *Kriegman* and *Thompson* plaintiffs voluntarily dismissed their cases in  
20 other districts and refiled them in the Central District of California. The newly filed  
21 cases were related to the *Feller* case and consolidated for pretrial purposes  
22 (collectively, the “Consolidated Actions”).

23 On June 10, 2016, plaintiffs filed a Consolidated Amended Class Action  
24 Complaint in this Court. [Dkt. 68.] On August 18, 2017, plaintiffs filed a Second  
25 Consolidated Amended Class Action Complaint. [Dkt. 293 (“SAC”).]<sup>1</sup>

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27 <sup>1</sup> The SAC removed Lois Thompson as a plaintiff, with Gail Thompson instead  
28 asserting claims individually and as power of attorney for Lois Thompson.

1 On October 3 and 4, 2018, the parties executed a Settlement Agreement and  
2 Release [Dkt. 401-1 (“Settlement Agreement”)] intended to resolve the Consolidated  
3 Actions. On October 4, the Settlement Agreement was submitted to the Court along  
4 with a Motion for Preliminary Approval [Dkt. 399.]

5 On October 5, 2018, this Court entered its Preliminary Approval Order: (a)  
6 preliminarily approving the class action Settlement proposed in the Settlement  
7 Agreement by Plaintiffs Gordon & Mary Feller, Andrew Kriegman (as trustee for  
8 the Adrienne L. Hendler Revocable Trust dated 6/4/1993, the Elizabeth Kriegman  
9 Revocable Trust dated 6/8/1993, and the Patricia Sokolow Revocable Trust dated  
10 6/4/1993), Gerald R. Lyons, Donna M. & Clarence E. White, Gail Thompson  
11 (individually and as power of attorney for Lois Thompson), and Eric Schneck (as  
12 co-trustee of the Burton I. Schneck Irrevocable Life Insurance Trust dated  
13 2/24/1997) (collectively, “Plaintiffs”) and Transamerica in the Consolidated  
14 Actions, (b) preliminarily approving the proposed nationwide class Settlement, (c)  
15 directing distribution of the Class Notice, and (d) preliminarily enjoining parallel  
16 proceedings. [Dkt. 404.] The Court also set a Fairness Hearing for January 28, 2019,  
17 (a) to determine whether the proposed Settlement is fair, reasonable, adequate, in the  
18 best interests of the Settlement Class, and (b) to consider any application for  
19 approval of a common fund payment of attorneys’ fees and litigation expenses to  
20 Plaintiffs’ Counsel and of service awards to the Settlement Class Representatives.

21 The approved form of Class Notice having been disseminated in form and  
22 content directed by the Preliminary Approval Order [Dkt. 419], Plaintiffs on  
23 December 13, 2018, moved for final approval of the Settlement [Dkt. 420 (“Final  
24 Approval Motion”)] and for Court approval of the proposed payment of attorneys’  
25 fees, litigation expenses, and service awards [Dkt. 421 (“Fee Application”)].

26 The Court held the Fairness Hearing on January 28, 2019. [Dkt. 442.] The  
27 Court has considered: (i) the Final Approval Motion and the Fee Application; (ii)  
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1 the extensive memoranda of points and authorities submitted in support of each;  
2 (iii) the declarations and exhibits submitted in support of each; (iv) Transamerica's  
3 separate request for final approval of the Settlement and entry of the Final Approval  
4 Order in the Consolidated Actions based on the terms and conditions set forth in the  
5 Settlement; (v) the Settlement Agreement itself; (vi) the entire record in this  
6 proceeding, including but not limited to the points and authorities, declarations, and  
7 exhibits submitted in support of preliminary approval of the Settlement; (vii) the  
8 form and manner of Class Notice of the proposed Settlement provided to the  
9 Settlement Class that encompasses more than 69,000 Policies; (viii) the filing of  
10 only three objections to the Settlement, two of which have been voluntarily  
11 withdrawn; (ix) the arguments advanced by all objectors, withdrawn or not, and the  
12 factual information provided by Co-Lead Class Counsel regarding the  
13 circumstances, background and mediation process involving the withdrawal of two  
14 of the objections; (x) the absence of any objection to the Fee Application; (xi) the  
15 absence of any objection or response by any state attorneys general, nor insurance  
16 official from any state, after they were all provided with the notices required by the  
17 Class Action Fairness Act of 2005, 28 U.S.C. §1715; (xii) the oral presentation by  
18 Co-Lead Settlement Class Counsel at the Fairness Hearing; (xiii) this Court's  
19 experiences and observations while presiding over the Consolidated Actions and  
20 similar actions; (xiv) the Court's file herein; and (xv) the relevant law including, but  
21 not limited to, *In re Bluetooth Headset Prods. Liab. Litig.*, 654 F.3d 935 (9th Cir.  
22 2011), and the factors set forth in *Churchill Vill., L.L.C. v. GE*, 361 F.3d 566, 575  
23 (9th Cir. 2004).

24 Based upon the foregoing considerations, the Court's findings of fact and  
25 conclusions of law as set forth in the Preliminary Approval Order, and good cause  
26 appearing:

27 IT IS HEREBY ORDERED AND DECREED:  
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1           **1. Definitions.** The capitalized terms used in this Final Approval Order  
2 shall have the meanings and/or definitions given to them in the Settlement  
3 Agreement [Dkt. 401-1], or if not defined therein, the meanings and/or definitions  
4 given to them in this Final Order.

5           **2. Incorporation of Documents.** This Final Approval Order incorporates  
6 and makes a part hereof:

- 7                   (a) the Settlement Agreement (including the exhibits thereto); and  
8                   (b) the Court's findings and conclusions contained in its Preliminary  
9 Approval Order.

10           **3. Jurisdiction and Venue.** The Court has personal jurisdiction over the  
11 Parties and the Settlement Class Members. The Court has subject matter jurisdiction  
12 over the Consolidated Actions under 18 U.S.C. §1332, including, without limitation,  
13 jurisdiction to approve the Settlement, to settle and release all claims alleged in the  
14 action and all claims released by the Settlement, including the Released Transactions  
15 (as defined in the Settlement Agreement), to adjudicate the objections submitted to  
16 the proposed Settlement by Settlement Class Members and to dismiss the  
17 Consolidated Actions with prejudice. By failing to exclude themselves according to  
18 the Court's Preliminary Approval Order, all Settlement Class Members have  
19 consented to the jurisdiction of this Court for purposes of this Action and the  
20 Settlement of this Action. Venue in this District is appropriate under 28 U.S.C.  
21 §1391.

22           **4. Definition of the Class and Settlement Class Members.** The  
23 Settlement Class hereby certified by the Court is defined as:

24           All persons or entities who own or owned a Policy encompassed by the  
25           MDR Increases during the Class Period.

26 Excluded from the Settlement Class are (a) the Honorable Christina A. Snyder,  
27 United States District Court Judge of the Central District of California (or other  
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1 Circuit, District, or Magistrate Judge presiding over the Consolidated Actions  
2 through which this matter is presented for settlement) and court personnel employed  
3 in Judge Snyder's (or such other Judge's) chambers or courtroom; (b) Transamerica  
4 and its parents, affiliates, subsidiaries, successors, predecessors, and any entity in  
5 which Transamerica has a controlling interest and their current or former officers  
6 and directors (except to the extent Transamerica or such other entity is the owner of  
7 a Policy held for the benefit of an individual who is not otherwise excluded from  
8 membership in the Settlement Class); (c) any officer or director of Transamerica  
9 reported in its Annual Statements during the Class Period, or entity in which  
10 Transamerica had a controlling interest at any relevant time, any member of those  
11 persons' immediate families and legal affiliates, heirs, controlling persons, agents,  
12 successors and predecessors in interest or assigns of any such excluded person or  
13 entity; (d) Policyholders who properly execute and timely file a Request for  
14 Exclusion from the Settlement Class; and (e) the legal representatives, successors,  
15 or assigns of any such excluded Policyholders (but only then in their capacity as  
16 legal representative, successor, or assignee).

17 The Class Period is from August 1, 2015, through and including the date this  
18 Final Approval Order is entered. "Policy" or "Policies" means one or more insurance  
19 policies issued under the plans set forth in Exhibit A to the Settlement Agreement  
20 [Dkt. 401-1, at ECF 44]. All Settlement Class Members are subject to this Final  
21 Approval Order and the Final Judgment to be entered by the Clerk of Court in  
22 accordance herewith. All Policyholders who fall within the Settlement Class  
23 Definition are members of the Settlement Class, whether their Policy is an In-Force  
24 Policy or a Terminated Policy, as those terms are defined in the Settlement  
25 Agreement.

26 **5. Findings and Conclusions.** Based on its familiarity with the nature of  
27 the case, the record, the procedural history, the parties and the work of their counsel,  
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1 the Court finds that the Settlement was not the product of collusion and lacks any  
2 indicia of unfairness. The Court finds the Settlement is fair, reasonable, and adequate  
3 to the Settlement Class in light of the complexity, expense, and likely duration of the  
4 Consolidated Actions (including appellate proceedings), and the risks involved in  
5 establishing liability, damages, and in maintaining the Consolidated Actions on a  
6 class-wide basis through trial and appeal. The Court finds that the Settlement  
7 represents a fair and complete resolution of all claims asserted in a representative  
8 capacity on behalf of the Settlement Class and will fully and finally resolve all such  
9 claims.

10 In support of the foregoing findings and conclusions, the Court further  
11 specifically finds:

12 (a) There is no evidence of collusion. The Settlement is the product  
13 of extensive negotiations between the Parties with the assistance, and direct  
14 supervision, of an experienced and highly-regarded nationally-renowned mediator,  
15 David Geronemus, associated with JAMS in New York City, who teaches  
16 negotiation at Yale and Columbia Law Schools and who conducted many telephone  
17 sessions with all parties and a full day in-person mediation with all parties. Before  
18 agreeing to settle the Consolidated Actions, Plaintiffs, through Co-Lead Class  
19 Counsel and their experts, conducted extensive formal and informal discovery and a  
20 thorough investigation of the claims, defenses, and underlying events and  
21 transactions that are the subject of the Consolidated Actions. The discovery and  
22 investigation included, among other things: (i) evaluation of the evidence and  
23 applicable law, including the review and analysis of approximately one-million  
24 documents and data files produced by Transamerica and third-parties; (ii)  
25 consultation with highly experienced actuarial and other experts retained by Co-  
26 Lead Class Counsel; (iii) taking and defending depositions of fact and expert  
27 witnesses; and (iv) engaging in extensive motion practice, including successive  
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1 motions to dismiss, discovery motion practice, an application for preliminary  
2 injunctive relief, and successive motions for class certification.

3 In addition to taking the foregoing actions, the Parties also engaged in  
4 extensive activities necessary to adequately prepare for fully-informed settlement  
5 negotiations. Before meeting in person, the Parties participated in numerous pre-  
6 mediation meetings and calls and exchanged discovery and other data. In advance  
7 of the mediation, the Parties prepared and exchanged detailed mediation statements  
8 addressing liability, damages, and potential settlement structures. In furtherance of  
9 their pre-mediation preparation, Co-Lead Class Counsel acquired a license to use  
10 proprietary software that allowed their consulting actuary to examine and evaluate  
11 the challenged MDR Increases using alternative actuarial assumptions. Plaintiffs'  
12 actuarial expert also prepared a model to compute reliably the alleged overcharges  
13 associated with the MDR Increases and the values and savings resulting from  
14 proposed settlement benefits.

15 The Parties then participated in a full-day mediation session before Mediator  
16 Geronemus on June 20, 2018, but did not reach an agreement at that time. Following  
17 the in-person mediation, the Parties continued to exchange letters and information  
18 and participated in numerous conference calls to negotiate proposed settlement  
19 terms. The Parties agreed to the final terms of the proposed Settlement several weeks  
20 after the in-person mediation session. The Parties then devoted substantial efforts to  
21 preparation of the formal Settlement Agreement, which thereafter was approved by  
22 the Plaintiffs and Transamerica.

23 Throughout the process, the settlement negotiations were conducted at arm's  
24 length by highly qualified and experienced counsel on both sides. Co-Lead Class  
25 Counsel have concluded that the proposed Settlement is fair and reasonable, and is  
26 a highly successful result for members of the proposed Settlement Class. Co-Lead  
27 Class Counsel were well-informed of material facts and the negotiations were hard-  
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1 fought and non-collusive. Co-Lead Class Counsel analyzed all contested legal and  
2 factual issues to thoroughly evaluate Transamerica's contentions and defenses,  
3 advocated in the settlement negotiation process for a fair and reasonable settlement  
4 that serves the best interests of the Settlement Class, and made fair and reasonable  
5 settlement demands of Transamerica.

6 (b) The Settlement provides for substantial cash payments and/or  
7 other monetary benefits to Settlement Class Members. Under the Settlement  
8 Agreement, Transamerica agreed to create a gross Settlement Common Fund in the  
9 amount of \$195 million based on full participation by the entire Settlement Class  
10 (the "Settlement Common Fund"). The Settlement Common Fund, net of the  
11 amounts approved by the Court's Fee and Expense Order and a reduction for opt-  
12 outs<sup>2</sup> (the "Net Settlement Common Fund"), will be distributed to Settlement Class  
13 Members in a manner that generally corresponds to the injuries resulting from the  
14 alleged contractual breaches that are the focus of the Consolidated Actions;  
15 specifically, the Net Settlement Common Fund will be allocated among the  
16 Settlement Policies based on the difference between (a) the Monthly Deductions  
17 withdrawn from the accumulation value of a Class Policy during the Settlement  
18 Computation Period and (b) the Monthly Deductions that would have been  
19 withdrawn during the Settlement Computation Period under the prior MDR  
20 schedule; subject to a minimum allocation of \$100, the funds will be distributed as  
21 follows and as set forth in further detail in the allocation calculations exchanged  
22 between counsel pursuant to Paragraph 69(b) of the Settlement Agreement:

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24  
25 <sup>2</sup> The Settlement Common Fund was proportionately reduced by the amounts that  
26 otherwise would have been distributed to those Policyholders requesting exclusion  
27 from the Settlement Class. Thus, the level of exclusion requests did not affect the  
28 estimated recovery of each Policyholder who wished to remain in the Settlement  
Class.

1       • In-Force Policyholders will be paid their share of the Net Settlement Common  
2       Fund by an increase to the accumulation value of each In-Force Policy (the  
3       “Accumulation Value Payment”).

4       • Terminated Policyholders will be paid their share of the Net Common  
5       Settlement Fund by check (the “Terminated Policy Payment”).

6       The Court finds and concludes that the proposed allocation formula treats all  
7       Settlement Members in a comparable fashion and that Settlement Members with In-  
8       Force Policies will receive monetary benefits comparable to those received by  
9       Settlement Class Members with Terminated Policies. The Net Settlement Common  
10      Fund will be distributed automatically to the Settlement Class; Settlement Class  
11      Members are not required to fill out a claim form to receive these benefits. There  
12      will be no reversion of the Net Settlement Common Fund to Transamerica, however,  
13      once the Settlement Class is determined. In addition to the Settlement Common  
14      Fund, the Settlement includes several other monetary benefits to the Class:

15      • Transamerica alone will pay and otherwise alone bear all administrative  
16      expenses incurred after the execution of the Settlement Agreement (including  
17      publication, printing, and mailing costs of the Class Notice and administration  
18      costs of the Settlement Relief), which will not be paid or otherwise reimbursed  
19      by Plaintiffs, Plaintiffs’ Counsel, Co-Lead Class Counsel or the Settlement  
20      Class should the Settlement be terminated or disapproved for any reason, or  
21      should the Final Settlement Date otherwise not be attained for any reason (the  
22      “Notice and Administrative Costs Benefit”).

23      • Transamerica has provided to Settlement Class Members, upon request and at  
24      no cost to the Settlement Class Member, an illustration depicting the impact  
25      of the Settlement Relief on the anticipated future performance of the Class  
26      Policies (the “Illustrations Benefit”).

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- In addition to the Settlement Common Fund, Transamerica agrees to pay to Plaintiffs' Counsel the first \$10 million of the attorneys' fees and expenses awarded and approved by the Court (the "TLIC Fee and Expense Contribution").

(c) In addition to all the foregoing monetary settlement benefits, the Settlement also includes valuable prospective relief that directly benefits Settlement Class Members now and into the future, which is set forth in Paragraph 69(d), (e), and (f) of the Settlement Agreement and is expressly incorporated herein in all respects:

- Transamerica agrees that it will not impose any additional MDR increase(s) on any Class Policy within five (5) years of the Execution Date, unless ordered to do so by a state regulatory body (the "MDR Increase Protection Benefit"). Notwithstanding the foregoing, TLIC will maintain the MDR schedules implemented through the MDR Increases.<sup>3</sup>
- Transamerica agrees that any future MDR increase(s) on a Class Policy will be based only on the collective effect of the cost factors assumed when the Policies were originally priced and will not increase the expected future profitability of the Class Policy to a level higher than projected based on the original policy pricing assumptions, which is intended to ensure that any future MDR increase adopted by Transamerica does not operate to recover past losses (the "Future MDR Methodology Benefit").
- Transamerica agrees it will not seek to void, rescind, cancel, have declared void, or otherwise deny coverage or death claims submitted by Settlement Class Members based on any alleged lack of insurable interest or

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<sup>3</sup> These MDR increases were applied to the age-based changes to MDRs included within the Policies' pre-existing MDR schedules.

1 misrepresentations made in connection with the original application process  
2 (the “Non-Contestability Benefit”).

3 (d) The Court has considered the realistic range of outcomes in this  
4 matter, including the amount Plaintiffs might receive if they prevailed at trial, the  
5 strength and weaknesses of the case, the novelty and number of the complex legal  
6 issues involved, the risk that Plaintiffs would receive less than the relief afforded by  
7 the Settlement Agreement or recover nothing at trial, and the risk of a reversal of  
8 any judgment based on a review of the Court’s file. The Settlement value is well  
9 within a range of reasonableness, even when considering the value of only the  
10 monetary relief recovered on behalf of the Settlement Class and is even more so  
11 considering the other valuable non-monetary benefits afforded to the Settlement  
12 Class.

13 (e) Before reaching the Settlement, Plaintiffs and Transamerica fully  
14 and vigorously litigated their claims and defenses in extensive proceedings before  
15 this Court and in the appellate courts, including: (i) Transamerica’s successive  
16 motions to dismiss; (ii) Plaintiffs’ application for a preliminary injunction;  
17 (iii) Plaintiffs’ successive motions for class certification; and (iv) Transamerica’s  
18 petition to appeal the Court’s class certification ruling pursuant to Fed. R. Civ. P.  
19 23(f).

20 (f) The Settlement Class is and was at all times adequately  
21 represented by the Class Representatives and Co-Lead Settlement Class Counsel,  
22 including in litigating the Consolidated Actions and in entering into and  
23 implementing the Settlement, and have satisfied the requirements of *Federal Rules*  
24 *of Civil Procedure*, Rule 23, and applicable law. Co-Lead Class Counsel have  
25 demonstrated that they have fully and competently prosecuted all causes of action,  
26 claims, theories of liability, and remedies reasonably available to the Settlement  
27 Class Members. Co-Lead Class Counsel are highly experienced class action lawyers  
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1 with specialized knowledge in insurance litigation, and complex class action  
2 litigation generally, fully capable of properly assessing the risks, expenses, and  
3 duration of continued litigation, including at trial and on appeal. Co-Lead Class  
4 Counsel submit that the Settlement is fair, reasonable and adequate for the  
5 Settlement Class Members.

6 (g) Transamerica denies all allegations of wrongdoing and disclaims  
7 any liability with respect to any and all claims alleged by Plaintiffs and the  
8 Settlement Class, including their claims regarding the propriety of class certification.  
9 But Transamerica agrees that the proposed Settlement will provide substantial  
10 benefits to Settlement Class Members, and considers it desirable to resolve the  
11 Consolidated Actions to finally put to rest Plaintiffs' and the Settlement Class's  
12 claims and to avoid, among other things, the risks of continued litigation, the  
13 expenditure of time and resources necessary to proceed through trial and any  
14 subsequent appeals, and the interference with ongoing business operations.

15 (h) The selection and retention of the Settlement Administrator was  
16 reasonable and appropriate.

17 (i) As further addressed in this Court's Preliminary Approval Order  
18 and below, through the mailing of the Class Notice in the form and manner ordered  
19 by this Court the Settlement Class has received the best practicable notice of the  
20 pendency of this class action, of the Settlement, the Fairness Hearing, and of  
21 Settlement Class Members' rights and options, including their rights to opt out, to  
22 object to the Settlement, and/or to appear at the Fairness Hearing in support of a  
23 properly submitted objection, and of the binding effect of the orders and Judgment  
24 in these Consolidated Actions, whether favorable or unfavorable, on all Settlement  
25 Class Members. The Settlement Administrator sent the Class Notice to the  
26 Settlement Class Members by first-class mail on November 13, 2018, as directed by  
27 the Court's Preliminary Approval Order. [Dkt. 404 ¶ 7; Dkt. 419 ¶¶ 1-6.] The  
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1 Settlement Class Members were given until December 28, 2018, to object to any  
2 aspect of the proposed Settlement by filing a written statement of objection with the  
3 Court. [Dkt. 404 ¶¶ 11, 12.] The Class Notice fully satisfied all notice requirements  
4 under the law, including the Federal Rules of Civil Procedure, and all due process  
5 rights under the U.S. Constitution and California Constitution.

6 (j) In response to the Class Notice, only three objections  
7 (approximately 0.004%) were filed questioning the reasonableness of the proposed  
8 Settlement, and zero objections were filed to Plaintiffs' Counsel's application for  
9 approval of common fund payment of attorneys' fees, litigation expenses, and  
10 service awards. Two of the three objections were subsequently withdrawn. This  
11 overwhelmingly positive embrace of the Settlement by class members strongly  
12 supports approval. *See, e.g., Feist v. Petco Animal Supplies, Inc.*, No. 3:16-cv-  
13 01369-H-MSB, 2018 WL 6040801, at \*5 (S.D. Cal. Nov. 16, 2018) (“[T]he absence  
14 of a large number of objections to a proposed class action settlement raises a strong  
15 presumption that the terms of a proposed class settlement action are favorable to the  
16 class members.”) (quoting *Nat'l Rural Telecomms. Coop. v. DIRECTV, Inc.*, 221  
17 F.R.D. 523, 529 (C.D. Cal. 2004)); *compare, e.g., Churchill Vill.*, 361 F.3d at 577  
18 (same; 45 objections out of approximately 90,000 class members); *In re Omnivision*  
19 *Techs., Inc.*, 559 F. Supp. 2d 1036, 1043 (N.D. Cal. 2008) (same; three objections  
20 out of approximately 57,000 class members).

21 6. **Requests for Exclusion.** Lists of those Policyholders who have timely  
22 and validly requested exclusion from the Settlement Class are set out by Policy  
23 number in the attached Exhibit A. The Policyholders owning Policies listed on said  
24 Exhibit A are excluded from the Settlement Class and such persons are therefore not  
25 Settlement Class Members, shall not be bound by the Settlement or Final Approval  
26 Order and Judgment in the Action, and shall not receive any Settlement Relief. All  
27 other Policyholders to whom the Class Notice was mailed are included in the  
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1 Settlement Class and shall be bound by all proceedings, orders, and judgments in  
2 these Consolidated Actions. As a result of the exclusion of Settlement Relief that  
3 would have been distributed to those Policyholders requesting exclusion, the net  
4 Settlement Common Fund is reduced to \$110,668,433.32, prior to any additional  
5 reduction resulting from the award of attorneys' fees, litigation costs and service  
6 awards.

7       **7. Notices Pursuant to 28 U.S.C. § 1715.** Based on the requirements of  
8 the Settlement Agreement and the declarations submitted in support of final  
9 settlement approval, the Court finds that all notices and requirements of the Class  
10 Action Fairness Act of 2005, 28 U.S.C. § 1715, have been satisfied. More than ninety  
11 (90) days have passed since the service of the foregoing notices. No written  
12 objection or response to the Settlement was filed by any federal or state official,  
13 including any recipient of the foregoing notices. No federal or state official,  
14 including any recipient of the foregoing notices, appeared or requested to appear at  
15 the Fairness Hearing.

16       **8. Settlement Class Member Objections.** As set forth in detail *supra*,  
17 full and fair notice of Settlement Class Members' right to object to the Settlement  
18 and to appear at the Fairness Hearing in support of such an objection has been  
19 provided in the form and manner required by the Settlement Agreement, the Court's  
20 Preliminary Approval Order, the requirements of due process, and any other  
21 applicable law.

22       The following objections were timely filed in accordance with the Court's  
23 Preliminary Approval Order:

- 24       • Dkt. 427-2 through -5: C. Thomas Tenney, Jr., Duncan Tenney, Susan Noble,  
25       filed *pro per* as trustees and policyowner of some or all of the following  
26       policies: Transamerica Policy No. 92488644; Transamerica Policy No.



1 92493028; Transamerica Policy No. 92493029; and Transamerica Policy No.  
2 92488650 (collectively, the “Tenney Objection”).

- 3 • Dkt. 427-1: Dorothy Daley, filed *pro per*, Transamerica Policy No. 92521161  
4 (the “Daley Objection”);
- 5 • Dkt. 424: Suzanne Fairlie, Transamerica Policy No. 92309935 and Ronald  
6 Perkins, Transamerica Policy No. 92996275, filed by attorney Stephen J.  
7 Fearon, Jr. (“Fearon”) on behalf of two plaintiffs in duplicative lawsuits  
8 Fearon filed in the Northern District of Iowa (the “Fearon Objection”) long  
9 after *Feller* commenced, as addressed at length in Plaintiffs’ opposition to  
10 Fearon’s earlier motion to intervene. [Dkt. 413.]

11 The Daley Objection was withdrawn on January 14, 2019 with no payment or  
12 consideration for the withdrawal. [Dkt. 429.] The Fearon Objection was withdrawn  
13 at the Fairness Hearing with the approval of the Court.

14 The Tenney Objection focuses mainly on the specific facts of those individual  
15 circumstances (and not the class) and consists of a series of four materially identical  
16 objections, through which the Tenney objectors complain that relief from the  
17 challenged MDR Increases does not sufficiently address premium increases incurred  
18 on their four specific policies insuring the life of Eunice Tenney, who will turn 100  
19 in less than a year. [Dkt. 427-2 through -5.] Specifically, the Tenneys decry the  
20 premium increases imposed by Transamerica as their common insured has aged:  
21 “While it may be positive that under the terms of the Settlement Transamerica may  
22 never again increase the monthly deduction rate, the damage [from the premium  
23 increase] has already been done to this policy and it most likely will not still be in  
24 force when the settlement is approved.” Dkt. 472-2, at ECF 2; Dkt. 472-3, at ECF 2;  
25 Dkt. 472-4, at ECF 2; Dkt. 472-5, at ECF 2. Although thus seemingly recognizing  
26 the distinction between the MDR Increases challenged in the Consolidated Actions  
27 and the age-based premium increases that were baked into the MDR schedules in  
28

1 place *before* the MDR Increases, the Tenney Objection in conclusion conflates the  
2 two:

3 It appears ... that Transamerica depositing into the policy accumulation  
4 value the difference of what would have been charged under the prior  
5 MDR's and what was charged after the MDR increases would not solve  
6 much. It also appears that going forward they are still able to charge the  
increased monthly deductions. This does not seem like a very just  
outcome.

7  
8 *Id.* The Tenney Objection appears, therefore, to assert that the benefits of the  
9 proposed Settlement are inadequate because (a) the Settlement does not eliminate  
10 the MDR Increases in their entirety and (b) even if it did, the progressively increasing  
11 MDRs based upon the age of their insured makes the Tenney Policies too expensive  
12 to maintain. The Court overrules the Tenney Objection for three reasons.

13 First, by emphasizing premium increases based upon the age of their common  
14 insured (Eunice Tenney, who is said to be approaching 100 years of age in the near  
15 term), the Tenneys raise individual issues rather than a class-wide objection. *Roberts*  
16 *v. Marshalls of CA, LLC*, No. 13-cv-04731-MEJ, 2018 WL 510286, at \*10-11 (N.D.  
17 Cal. Jan. 23, 2018) (overruling objection to class settlement based on objector's  
18 unique circumstances: "nothing in Ms. Michaels' objection suggests this is a class-  
19 wide issue, rather than an individual one").<sup>4</sup> Essentially, the Tenneys seek  
20 individualized treatment in the specific (and relatively rare) instance in which the  
21 insured is within a few months of turning 100 years of age. The Tenney Objection  
22 therefore affords no grounds to disapprove a Settlement affording relief with respect  
23 to the MDR Increases to the balance of the Settlement Class as anything than fair  
24

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25 <sup>4</sup> Rule 23(e)(5)(A) now requires that the objection "must state whether it applies only  
26 to the objector, to a specific subset of the class, or to the entire class, and also state  
27 with specificity the grounds for the objection." Although the *pro per* Tenney  
28 Objectors do not explicitly so state, it is apparent that their objection based on the  
advanced age of their insured does not apply to the class as a whole.

1 and reasonable, nor any reason to deprive the class as a whole the benefits of the  
2 proposed Settlement.

3       Second, premium increases of the magnitude described in the Tenney  
4 Objection are an unfortunate consequence of: (1) MDRs that would have increased  
5 as the insured aged over time even in the absence of the MDR Increases; and (2) low  
6 policy accumulation values based on policy funding decisions by the Tenneys  
7 themselves. As recognized by the Tenney objectors, the cost-ineffectiveness they  
8 face would exist even had the challenged MDR Increases not been imposed by  
9 Transamerica. In this action, Plaintiffs challenged **only** the MDR Increases, **not**  
10 MDR increases based on the increasing age of the insured.<sup>5</sup> Accordingly, the  
11 concerns described in the Tenney Objection are not based on the same factual  
12 predicate as those alleged in the SAC, and as such are not prejudiced by the proposed  
13 Settlement. *Hesse v. Sprint Corp.*, 598 F.3d 581, 590 (9th Cir. 2010) (a class  
14 settlement agreement may preclude a party from bringing a related claim in the  
15 future, but only where the released claim is “based on the identical factual predicate  
16 as that underlying the claims in the settled class action”) (quoting *Williams v. Boeing*  
17 *Co.*, 517 F.3d 1120, 1133 (9th Cir. 2008)); *Class Plaintiffs v. City of Seattle*, 955  
18 F.2d 1268, 1287 (9th Cir. 1992) (class may release only those claims based on “the  
19 identical factual predicate” as those underlying the claims in the settled class action).

20       Third, the Tenney Objection’s demand that the Plaintiffs secure nothing less  
21 than the complete elimination of the MDR Increases “demonstrates a failure to  
22 appreciate the fact that settlements are by necessity compromises.” *Roberts v.*  
23 *Electrolux Home Prods., Inc.*, No. CV13-2339-CAS VBKX, 2014 WL 4568632, at  
24 \*11 (C.D. Cal. Sept. 11, 2014). As the Ninth Circuit has famously stated:

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25  
26 <sup>5</sup> Indeed, the cost of insurance charges on all universal life policies increase as the  
27 insured ages over time resulting in rapidly escalating charges at high ages. *See*, K.  
28 Black and H. Skipper, *LIFE & HEALTH INSURANCE* (Thirteenth Ed.) at 117-119.

1 Of course it is possible, as many of the objectors' affidavits imply, that  
2 the settlement could have been better. But this possibility does not mean  
3 the settlement presented was not fair, reasonable or adequate.  
4 Settlement is the offspring of compromise; the question we address is  
5 not whether the final product could be prettier, smarter or snazzier, but  
6 whether it is fair, adequate and free from collusion.

7 *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1027 (9th Cir. 1998); *Roberts*, 2014 WL  
8 4568632, at \*11-12 (quoting same). Simply arguing that the recovery in the case  
9 should have been better does not render the Settlement itself unfair, unreasonable,  
10 or inadequate. *See, e.g., Negrete v. Allianz Life Ins. Co. of N. Am.*, No. CV-05-6838-  
11 CAS(MANX), 2015 WL 12592726, at \*8 (C.D. Cal. Mar. 17, 2015) ("That the  
12 Objectors may have made another bargain is beside the point; settling parties need  
13 not find the most ideal terms.") (quoting *In re Toyota Motor Corp. Unintended*  
14 *Acceleration Mktg. Sales Practices, & Prods. Liab. Litig.*, No. 8:10 ML 02151 JVS  
(FMOx), 2013 U.S. Dist. LEXIS 94484, at \*261 (C.D. Cal. June 17, 2013))

15 Here, the Plaintiffs raised questions about the contractual constraints imposed  
16 by the contractual provision stating that Transamerica does not recover past losses  
17 by changing the monthly deduction rates upon Transamerica's discretion to increase  
18 MDRs subject only to the Policy contracts' guaranteed maximum rates – implicating  
19 a classic "battle of the experts." A compromise requiring Transamerica to refund  
20 almost 65% of the MDR Increases assessed during the Class Period, and establishing  
21 durational and substantive limits on any future MDR increase, is not an unreasonable  
22 compromise of the dispute.

23 **9. Rule 23(e) Compliance.** Recent amendments to Rule 23 require the  
24 Court to assess several core considerations in approving a proposed class settlement;  
25 namely, whether:

- 26 (A) the class representatives and class counsel have adequately  
27 represented the class;
- 28 (B) the proposal was negotiated at arm's length;
- (C) the relief provided for the class is adequate, taking into account:

- (i) the costs, risks, and delay of trial and appeal;
- (ii) the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims;
- (iii) the terms of any proposed award of attorney's fees, including timing of payment; and
- (iv) any agreement required to be identified under Rule 23(e)(3); and

(D) the proposal treats class members equitably relative to each other.

Fed. R. Civ. P. 23(e)(2). As these factors are largely subsumed under the traditional Ninth Circuit analysis addressed at length above, the Court hereby expressly confirms that these factors have been considered and support final approval of the Settlement. In particular, Co-Lead Class Counsel at the Fairness Hearing disclosed and explained the terms of the agreements reached after an extensive, full-day mediation before the Honorable Dickran M. Tevrizian (Ret.), including the sharing of attorneys' fees with Mr. Fearon in an amount less than he represented as his lodestar incurred in the prosecution of the Fearon Objectors' claims against Transamerica in the Northern District of Iowa, and the fact that such fees are paid solely from those approved for Plaintiffs' Counsel. Accordingly, the Court hereby approves of the withdrawal of the Fearon Objection and the agreement with Mr. Fearon in accordance with Fed. R. Civ. P. 23(e)(5)(B)(i), including the exclusion of Ms. Fairlie and Mr. Perkins from the Settlement Class.

**10. Final Settlement Approval and Binding Effect.** The terms and provisions of the Settlement have been entered into in good faith, and are fair, reasonable and adequate as to, and in the best interests of, the Parties and the Settlement Class Members, and in full compliance with all applicable requirements of the Federal Rules of Civil Procedure, the United States Constitution (including the Due Process Clause) and the California Constitution. Therefore, the Settlement is approved. The Settlement, this Final Approval Order and the Judgment shall be

1 forever binding on the Plaintiffs and all other Settlement Class Members, as well as  
2 their heirs, beneficiaries, beneficiaries designated under the Policies, conservators,  
3 personal representatives, executors and administrators, predecessors, successors and  
4 assigns, and shall have *res judicata* and other preclusive effect in all pending and  
5 future claims, lawsuits or other proceedings maintained by or on behalf of any such  
6 persons, to the fullest extent allowed by law.

7       **11. Implementation of Settlement.** The Parties are directed to implement  
8 the Settlement according to its terms and conditions, subject to the following:

9           (a) Transamerica shall apply the Accumulation Value Payment to  
10 each In-Force Class Policy on that Policy's first monthiversary date following the  
11 Final Settlement Date. A Policy's monthiversary date is the date of the month that  
12 Transamerica processes the monthly deduction. The monthiversary date is  
13 determined by the policy date shown in the Policy's data pages.

14           (b) If a Class Policy has matured or terminated (by lapse, surrender,  
15 death of the insured, or otherwise), the Settlement Class Member will receive his or  
16 her share of the Settlement Common Fund by check. The check will be distributed  
17 by the Settlement Administrator, Rust Consulting, within 30 days of the Final  
18 Settlement Date, or as soon as practical in the event tax reporting calculations  
19 necessitate a longer period.

20           (c) Should the status of any Class Policy change such that  
21 Transamerica must pay the Settlement Class Member a Terminated Policy Payment  
22 rather than an Accumulation Value Payment, Transamerica shall have an additional  
23 30 days to distribute that Settlement Class Member's share of the Settlement  
24 Common Fund. The check will be distributed by the Settlement Administrator, Rust  
25 Consulting.

26       **12. Interim Relief Stipulation.** The Court hereby vacates its approval of  
27 [Dkt. 392] and terminates the Parties' Stipulation Regarding Procedures for  
28



1 Specified Policies During the Pendency of the Action [Dkt. 391 (the “Interim Relief  
2 Stipulation”)]. Transamerica will, subject to Paragraphs 69(d)-(e) of the Settlement  
3 Agreement, maintain the MDR schedules implemented through the MDR Increases  
4 for any Policies that received relief through the Interim Relief Stipulation. The  
5 Monthly Deductions for any Policies (In-Force or Terminated) that received interim  
6 relief shall be re-calculated using the increased MDRs for the time period during  
7 which the Policy received the interim relief. In-Force Policyholders who received  
8 the interim relief through the Interim Relief Stipulation shall have at least thirty-one  
9 (31) days following receipt of the Accumulation Value Payment to make any further  
10 payments necessary to keep their Policy in force. Terminated Policyholders who  
11 received the interim relief prior to any termination shall have the difference between  
12 the re-calculated amount of the Monthly Deductions under the MDR Increases and  
13 the Monthly Deductions under the Interim Relief Stipulation deducted from their  
14 Settlement Relief, unless the difference has already been retained by Transamerica.

15       **13. Release.** The Release set forth in Section VIII of the Settlement  
16 Agreement is expressly incorporated herein in all respects, is effective as of the date  
17 of the entry of this Final Approval Order, and forever discharges the Releasees from  
18 any claims or liabilities released by the Settlement, including the Released Claims  
19 (as those terms are defined in the Settlement Agreement). This Release covers,  
20 without limitation, any and all claims for attorneys’ fees and expenses, costs or  
21 disbursements incurred by Plaintiffs’ Counsel or other counsel representing  
22 Plaintiffs or Settlement Class Members in these Consolidated Actions, the  
23 administration of the Settlement, and the Released Transactions, except to the extent  
24 otherwise specified in this Final Approval Order and the Settlement Agreement.

25       In addition, also in accordance with the terms of Section VIII of the Settlement  
26 Agreement, this Final Approval Order expressly incorporates Transamerica’s  
27 release and discharge of Plaintiffs, Plaintiffs’ Counsel, and Co-Lead Class Counsel,  
28



1 from and against any and all claims, causes of action, debts, liabilities, damages,  
2 restitution, equitable, legal and administrative relief, known and unknown, at law or  
3 in equity, whether brought directly or indirectly, arising out of or relating to the  
4 filing, prosecution, or resolution of claims against TLIC alleged in the Feller Action,  
5 the Kriegman Action, the Thompson Action, the Lyons Action, the White Action  
6 and/or the Consolidated Actions.

7       **14. Permanent Injunction.** All Settlement Class Members are hereby  
8 permanently enjoined from filing, commencing, prosecuting, intervening in,  
9 participating in, maintaining, individually, as class members or otherwise, directly  
10 or indirectly through a representative or otherwise, receiving any benefits from, or  
11 organizing or soliciting the participation in, directly or indirectly, any lawsuit  
12 (including putative class actions), arbitration, remediation, administrative or  
13 regulatory proceeding or order in any jurisdiction, asserting any claims based on or  
14 relating to the claims or causes of action or the facts and transactions alleged or  
15 pursued in the Consolidated Actions or released by the Settlement Agreement; and  
16 from organizing Settlement Class Members into a separate class for purposes of  
17 pursuing as a purported class action any lawsuit (including by seeking to amend a  
18 pending complaint to include class allegations, or seeking class certification in a  
19 pending action) asserting any claims released by this the Settlement Agreement.  
20 Nothing in this paragraph, however, shall require any Settlement Class Member to  
21 take any affirmative action with regard to other pending class action litigation in  
22 which they may be absent class members. The Court finds that issuance of this  
23 permanent injunction is necessary and appropriate in the aid of the Court's  
24 jurisdiction over the Consolidated Actions and its judgments.

25       **15. Enforcement of Settlement.** Nothing in this Final Approval Order  
26 shall preclude any action to enforce the Settlement or interpret the terms of the  
27 Settlement Agreement. Any action which seeks to enforce or interpret the terms of  
28

1 the Settlement, or which seeks to interpret or avoid in any way any legal  
2 consequences of or the effect of the Settlement Agreement, the Preliminary  
3 Approval Order, this Final Approval Order, the Permanent Injunction contained in  
4 this Final Approval Order, or the Release contained in the Settlement Agreement  
5 shall be brought solely in this Court.

6       **16. Plaintiffs' Counsel Attorneys' Fees and Expenses.** As explained  
7 below, the Court has fully assessed and finds fair and reasonable the common fund  
8 payment to Plaintiffs' Counsel of \$27,688,000.00 in attorneys' fees and  
9 \$1,004,608.49 in litigation expenses, the first \$10 million of which is to be paid by  
10 Transamerica in accordance with the terms of the Settlement Agreement as the TLIC  
11 Fee and Expense Contribution.

12       This Court has reviewed at length Plaintiffs' Counsel's submissions in support  
13 of their application. Based on those uncontradicted submissions, the Court finds  
14 Plaintiffs' Counsel's hourly rates reasonable for complex class action litigation in  
15 Los Angeles. The Court also finds the rates charged by Plaintiffs' Counsel consistent  
16 with the hourly rates approved in *In re American Equity Annuity Practices and Sales*  
17 *Litig.*, No. CV-05-6735-CAS-MAN (C.D. Cal), *In re Midland National Life*  
18 *Insurance Co. Annuity Sales Practices Litigation*, No. 2:07-ml-01825-CAS-MAN  
19 (C.D. Cal.), and *Negrete v. Fidelity & Guarantee Life Ins. Co.*, No. 05-6837-CAS  
20 (MANx) (C.D. Cal.). The hourly rates are commensurate with the skill and  
21 experience of the participating attorneys and their legal support.

22       Likewise, the amount of time devoted to the Consolidated Actions was  
23 reasonable, given Transamerica's vigorous defense of Plaintiffs' claims. Plaintiffs'  
24 Counsel has submitted evidence supporting the total number of hours they devoted  
25 to this litigation. In their submissions, Plaintiffs' Counsel provided detailed charts  
26 that segregate their time by individual attorney and support personnel, identifying  
27 the position of the attorney or support personnel, and their current hourly rates. The  
28

1 charts further segregate each individual's time by twenty-two separate litigation  
2 tasks. According to their submissions, Plaintiffs' Counsel firms and attorneys have  
3 collectively devoted 16,668 hours of attorney and litigation support time to this  
4 litigation. Based upon their contemporaneous internal billing records, Plaintiffs'  
5 Counsel calculates a total lodestar of \$9,326,856.75. The evidence shows that  
6 Plaintiffs' Counsel exercised sound billing practices in a complex case they had to  
7 litigate for years against first-rate defense counsel.

8       The Court has observed the zealotry with which Co-Lead Class Counsel  
9 prosecuted the Consolidated Actions in particular, and the exceptionally high quality  
10 of Co-Lead Class Counsel's representation of the Settlement Class throughout that  
11 time. The representation was on a pure contingent-fee basis, with no assurance that  
12 Plaintiffs' Counsel would be compensated for their efforts on behalf of the Class. It  
13 was in this challenging context that Co-Lead Class Counsel succeeded in negotiating  
14 a highly beneficial Settlement for the Settlement Class. The Court has carefully  
15 reviewed the task-based summary of Plaintiffs' Counsel's time in this case,  
16 submitted by Plaintiffs' Counsel in addition to their overall time and expenses. The  
17 Court finds that the role of Plaintiffs' Counsel is adequately set forth and described  
18 in Plaintiffs' Counsel's task-based summary and that the hours spent by them were  
19 reasonable, appropriate and necessary to the effective and efficient prosecution of  
20 this complex and hotly contested litigation. The Court accepts the submissions of  
21 Plaintiffs' Counsel.

22       Having reviewed and approved Plaintiffs' Counsel's hourly rates and time  
23 spent, and fully familiar with the litigation and circumstances leading to the  
24 Settlement as elaborated above, the Court finds, based on ample and uncontroverted  
25 evidence, that a reasonable lodestar in this case is \$9,326,856.75, and reasonable  
26 expenses, which Plaintiffs' Counsel have fully documented, are \$1,004,608.49. All  
27  
28

submitted expenses are of the sort typically billed by attorneys to paying clients.  
*Harris v. Marhoefer*, 24 F.3d 16, 19 (9th Cir. 1994).

The Court further finds that the requested Plaintiffs' Counsel's attorneys' fees and Plaintiffs' Counsel's expenses are fully supported: (a) as a percentage of the overall benefit conferred on the Settlement Class by the Settlement, achieved solely through Plaintiffs' Counsel's efforts, the estimated value of which is substantially greater than the net Settlement Common Fund by virtue of the additional forms of Settlement Relief. Plaintiffs' Counsel's requested attorneys' fees equal 25% of the amount of the net Settlement Common Fund remaining after reduction for opt-outs (consistent with the 25% benchmark recognized in the Ninth Circuit) and equates to an effective percentage reduction of only 16% when the \$10 million TLIC Fee and Expense Contribution is taken into account. Further, under a lodestar cross-check analysis the fee award yields a multiplier of 2.97, which is well-within the range of appropriate multipliers recognized by this Court and by other courts within the Ninth Circuit.

Accordingly, given the foregoing factors and the result obtained for the Class, the Court finds the common fund payment of Plaintiffs' Counsel's attorneys' fees and expenses to be reasonable, and approves common fund payment to Co-Lead Class Counsel of attorneys' fees in the total amount of \$27,688,000, plus litigation expenses, in the total amount of \$1,004,608.49. The Court directs Transamerica to pay the first \$10,000,000 of these amounts directly to Co-Lead Class Counsel within 14 days of this Final Approval Order and following receipt of an IRS Form W-9 and wire instructions from Co-Lead Class Counsel, and the balance 14 days after the Final Settlement Date, all in accordance with the provisions of the Settlement Agreement. As a result of the exclusion of Settlement Relief that would have been distributed to those Policyholders requesting exclusion and the award of additional attorneys' fees, expenses and service awards from the Settlement Common Fund to

1 Plaintiffs' Counsel, less Transamerica's payment of the first \$10,000,000 of these  
2 amounts, the final net Settlement Common Fund is reduced to \$91,895,824.83.

3 Co-Lead Counsel will determine the amount of fees and expenses approved  
4 by the Court to be paid to other Plaintiffs' Counsel, subject to any written agreements  
5 between or among them. Disagreements, if any, between or among Plaintiffs'  
6 Counsel in the Consolidated Actions relating to the Court's award of fees and  
7 expenses, or of their individual shares of such an award, will be determined by the  
8 Court, which will retain sole and exclusive jurisdiction to resolve any such  
9 disagreements. Disagreements between or among Plaintiffs' Counsel will have no  
10 impact on the effectiveness or the implementation of this Settlement, nor will such  
11 disagreements have any impact on or result in any increase of the obligations  
12 imposed upon Transamerica by this Final Approval Order.

13 17. **Service Awards to Plaintiffs.** The Court approves a common fund  
14 payment of \$10,000.00 service awards to each of the Plaintiffs as provided in the  
15 Settlement Agreement:

- 16 • Gordan Feller
- 17 • Mary Feller
- 18 • Andrew Kriegman
- 19 • Gerald Lyons
- 20 • Donna White
- 21 • Clarence White
- 22 • Gail Thompson
- 23 • Eric Schneck

24 Based on the declarations of Class Counsel submitted in support of final settlement  
25 approval, Plaintiffs have actively participated and assisted Class Counsel in this  
26 litigation for the substantial benefit of the Settlement Class despite facing significant  
27 personal limitations. Each has waived his or her right to pursue potential individual  
28 claims or relief in the Consolidated Actions. Apart from these service awards, the  
Plaintiffs will receive no settlement payments or benefits of any nature other than  
their share of the Settlement relief available to the Settlement Class generally. These

1 service awards are approved to compensate the Plaintiffs for the burdens of their  
2 active involvement in this litigation and their commitment and effort on behalf of  
3 the Class. The service award payments will be made within 14 days after the Final  
4 Settlement Date and receipt from each Plaintiff of an IRS Form W-9 and wire or  
5 check mailing instructions.

6       **18. Modification of Settlement Agreement.** The Parties are hereby  
7 authorized, without needing further approval from the Court, to agree to and adopt  
8 such amendments to, and modifications and expansions of, the Settlement  
9 Agreement, if such changes are consistent with this Final Approval Order and do not  
10 limit the rights of Settlement Class Members or any other person entitled to  
11 Settlement Relief under the Settlement Agreement.

12       **19. Retention of Jurisdiction.** The Court has jurisdiction to enter this  
13 Final Approval Order and the Final Judgment. Without in any way affecting the  
14 finality of this Final Approval Order or the Final Judgment, for the benefit of the  
15 Settlement Class and Transamerica, and to protect this Court's jurisdiction, the Court  
16 expressly retains continuing jurisdiction as to all matters relating to the Settlement,  
17 including but not limited to any modification, interpretation, administration,  
18 implementation, effectuation, and enforcement of the Settlement, the administration  
19 of the Settlement and Settlement Relief, including notices, payments, and benefits  
20 thereunder, the Class Notice and sufficiency thereof, any objection to the Settlement,  
21 any request for exclusion from the Settlement Class, the adequacy of representation  
22 by Co-Lead Class Counsel and/or the Class Representatives, the amount of  
23 attorneys' fees and litigation expenses paid to Plaintiffs' Counsel, the amount of any  
24 service awards to be paid to any Plaintiff, any claim by any person or entity relating  
25 to the representation of the Settlement Class by Co-Lead Class Counsel, to enforce  
26 the release and injunction provisions of the Settlement and of this Final Approval  
27 Order and Final Judgment, any remand after appeal or denial of any appellate  
28

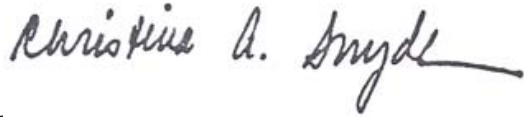
1 challenge, any collateral challenge made regarding any matter related to this  
2 litigation or this Settlement or the conduct of any party or counsel relating to this  
3 litigation or this Settlement, and all other issues related to these Consolidated  
4 Actions and Settlement.

5       **20. Dismissal of Action.** The Consolidated Actions are hereby dismissed  
6 on the merits and with prejudice, without an award of attorneys' fees or costs to any  
7 party except as provided in this Final Approval Order.

8       **WHEREFORE**, the Final Approval Motion and the Fee Application are  
9 **GRANTED** on the terms set forth in this Final Approval Order, and the Parties and  
10 their counsel are directed to implement and consummate the Settlement according  
11 to its terms and provisions as set forth in the Settlement Agreement.

12       **IT IS SO ORDERED.**

13  
14 DATED: February 6, 2019

  
\_\_\_\_\_  
HONORABLE CHRISTINA A. SNYDER  
UNITED STATES DISTRICT JUDGE



# EXHIBIT A

POLICY NUMBERS						
09370951	60105114	60123080	60125406	60126963	60128425	60129957
60070463	60105152	60123081	60125435	60127057	60128497	60129970
60071988	60105459	60123088	60125523	60127086	60128652	60129973
60073121	60105639	60123206	60125565	60127087	60128695	60129982
60073441	60105685	60123223	60125587	60127088	60128712	60130030
60076205	60107320	60123291	60125612	60127102	60128742	60130033
60076793	60109259	60123412	60125719	60127170	60128785	60130065
60077666	60109307	60123557	60125721	60127196	60128870	60130092
60078166	60110304	60123744	60125725	60127201	60128893	60130107
60078806	60110873	60123763	60125772	60127228	60128896	60130157
60079033	60111528	60123764	60125852	60127301	60128923	60130158
60079275	60111853	60123808	60125869	60127327	60128935	60130172
60081810	60112254	60123852	60125907	60127468	60128941	60130178
60081940	60112923	60123981	60125919	60127477	60129010	60130190
60085544	60112924	60123982	60125926	60127478	60129041	60130217
60085797	60114853	60124006	60125937	60127524	60129067	60130249
60086001	60114869	60124044	60125975	60127550	60129077	60130254
60086494	60114871	60124136	60126017	60127551	60129081	60130299
60087057	60115652	60124162	60126117	60127552	60129082	60130372
60087786	60115958	60124163	60126150	60127640	60129130	60130395
60090492	60116988	60124167	60126152	60127654	60129163	60130430
60090514	60117003	60124249	60126153	60127655	60129167	60130468
60093351	60117710	60124275	60126155	60127656	60129168	60130474
60093475	60117791	60124312	60126288	60127707	60129183	60130488
60093766	60117922	60124315	60126367	60127758	60129221	60130489
60093884	60118388	60124371	60126383	60127779	60129232	60130784
60094444	60118506	60124404	60126416	60127822	60129249	60130815
60094737	60118513	60124415	60126437	60127937	60129300	60130816
60094903	60118631	60124532	60126492	60127951	60129340	60130848
60095067	60118792	60124653	60126588	60127965	60129366	60130876
60095477	60118793	60124700	60126600	60127967	60129415	60130908
60095575	60119792	60124725	60126608	60128003	60129473	60130969
60096832	60120052	60124746	60126701	60128089	60129495	60130970
60096834	60120389	60124756	60126725	60128125	60129531	60130972
60097599	60121448	60124779	60126747	60128141	60129572	60131028
60097602	60121639	60125080	60126751	60128165	60129684	60131044
60097603	60121688	60125160	60126772	60128166	60129685	60131046
60097604	60121817	60125299	60126829	60128167	60129734	60131048
60098214	60122309	60125302	60126866	60128242	60129747	60131055
60098590	60122310	60125304	60126869	60128253	60129750	60131063
60101574	60122578	60125358	60126870	60128288	60129755	60131079
60102871	60122640	60125362	60126871	60128289	60129777	60131080
60103374	60122738	60125369	60126872	60128305	60129838	60131112
60103683	60122877	60125401	60126873	60128408	60129839	60131113
60104845	60123033	60125404	60126874	60128423	60129954	60131114

POLICY NUMBERS					
60131117	60133373	92091908	92369272	92472836	92521216
60131120	60133453	92102449	92369280	92474163	92526263
60131127	60133476	92188662	92370077	92481153	92527254
60131144	60133477	92195574	92376261	92481230	92528027
60131148	60133478	92204503	92377002	92481579	92528887
60131189	60133479	92205967	92377794	92483674	92530694
60131439	60133535	92211785	92391779	92484265	92534675
60131501	60133539	92211786	92393472	92484266	92536065
60131503	60133823	92213981	92395833	92484267	92536584
60131507	60133833	92219712	92396208	92484268	92536707
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60132640	60136206	92333239	92458916	92502870	92551153
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60132676	60136584	92339488	92460573	92503858	93076274
60132801	60136585	92340436	92461568	92504053	
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60133016	60147862	92360297	92469067	92517425	
60133229	60147863	92361341	92469875	92519558	
60133293	65016500	92363490	92471286	92520352	